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CRIMES AGAINST WOMEN AND CHILDREN IN INDIA: A COMPARATIVE STUDY OF PUNISHMENT FRAMEWORKS IN SELECTED COUNTRIES

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ABSTRACT:

Crimes against women and children continue to occur, threatening basic human rights worldwide and causing significant challenges for criminal justice systems. In India, issues like sexual violence, domestic abuse, child trafficking, and child exploitation are still common, despite the introduction of many special laws and changes to the criminal code. This study examines how effective these laws are at preventing crime, ensuring punishments match the offenses, and protecting victims. It compares India's legal system with those of several other countries to see how they tackle these crimes. The research combines legal principles with comparisons of different legal systems. It reviews Indian laws, including the Bharatiya Nyaya Sanhita, the Protection of Women from Domestic Violence Act of 2005, and the Protection of Children from Sexual Offences Act of 2012, in relation to laws from the United States, the United Kingdom, and some European nations. The analysis focuses on how sentences are determined, whether minimum punishments are applied, and how justice systems balance punishment with the opportunity for offenders to reform. The study also looks at how international agreements like the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) impact national laws. It highlights problems such as inconsistent sentencing, slow court processes, low crime reporting rates, and insufficient support for victims. The research argues that while harsh punishments are essential to address these serious crimes, their success hinges on effective enforcement, the efficiency of the legal process, and the level of support provided to victims. To achieve true justice for women and children, the study recommends establishing uniform punishment guidelines, strengthening support systems within the legal framework, and developing a strategy that combines deterrence, accountability, and efforts to help offenders change.

1. INTRODUCTION:

India's legal system for protecting women and children shows a clear contradiction. Laws have become much stronger, but incidents of violence and abuse remain high. This gap between legal changes and reality has become more apparent with the introduction of the Bharatiya Nyaya Sanhita 2023, which replaced the earlier penal code in 2024. The new law represents an important shift in India's criminal

justice system. It signals a stricter and more focused approach to crimes against women and children by increasing punishments and improving procedures.

Today, these crimes are no longer seen as ordinary offences but as serious human rights violations. The new legal framework reflects India's commitment to international standards by prioritizing the protection of dignity, autonomy, and bodily integrity. It also

addresses new forms of exploitation, such as deceitful sexual relationships based on false promises of marriage. Sentencing provisions have been toughened, especially in cases involving minors, with severe penalties including life imprisonment and, in rare instances, the death penalty. These changes show the State's intent to create a strong deterrent and ensure greater accountability.

However, despite these positive reforms, crime statistics continue to show a troubling situation. Data from the National Crime Records Bureau reveals persistently high levels of domestic violence, sexual offences, and trafficking. This suggests that tougher punishments alone are not enough to reduce these crimes or ensure justice. Acknowledging this, recent reforms have focused on making the justice system more victim-focused. Steps like recording statements with audio and video, quicker forensic processes, and child-friendly procedures show a shift toward improving the experiences of victims in the legal system.

Considering other countries shows more complexities. While India takes a very punitive approach with severe penalties, countries like the United Kingdom, Canada, and Australia focus on a more balanced model. Their systems combine punishment with rehabilitation, community safety, and robust victim support. This comparison suggests that the success of India's framework depends not just on harsh punishments, but also on effective enforcement, timely justice delivery, and the integration of preventive and rehabilitative measures. Ultimately, a well-rounded approach is crucial to close the gap between law and reality.

2. AIM OF THE RESEARCH:

I. To explore the laws in India that address crimes against women and children, especially focusing on the Bharatiya Nyaya Sanhita and other special laws related to these issues.

II. To review the penalties for these crimes, paying attention to the reasons behind them, such as deterring crime, ensuring punishments match the crime, and making sure they are severe enough.

III. To assess how effective strict punishments are in reducing the ongoing problem of crimes against women and children in India.

IV. To compare the punishment systems in other countries to discover what works well and what different approaches may exist.

V. To investigate the need for a fair justice system that combines punishment, efficient legal processes, protection for victims, and efforts to help offenders change.

3. REVIEW OF LITERATURE:

Scholarly literature on crimes against women and children frequently questions whether strict punishment alone can achieve the goals of criminal justice. **Principles of Criminal Law Andrew Ashworth** explains key theories such as deterrence, retribution, rehabilitation, and proportionality, highlighting that harsh penalties do not always reduce crime. Similarly, **Clare McGlynn and Vanessa Munro, in Sexual Offences Law: Current Issues and Challenges**, emphasize victim-centred reforms and show how legal changes often fail to deliver real justice due to social attitudes and procedural gaps.

In the Indian context, **Rashmi Singh's Child Protection Law in India** points out the gap between strong legal provisions and weak enforcement, while **B. Sivaramayya's Women, Law and Social Change** argues that legal reform alone cannot overcome deep-rooted patriarchal structures. **Comparative insights from Comparative Criminal Justice Systems Dammer and Albanese** demonstrate that effective systems balance deterrence with rehabilitation and victim protection.

From an international perspective, **Jeremy Sarkin** highlights how global instruments like CRC and CEDAW shape domestic laws, while **Meredith Dank and John C. Scott** stress the importance of victim support and procedural reforms. Andrew Dilts critiques excessive punishment and advocates rehabilitation, and **Edgar Mortlock** emphasizes welfare-based child protection systems. Overall, these works suggest that while strict laws are necessary,

their success depends on effective enforcement, victim-centric processes, and rehabilitative approaches.

4. RESEARCH QUESTIONS:

I. In terms of the severity and proportionality of punishments, how well do Indian criminal laws handle crimes against women and children?

II. What are the main distinctions between the criminal justice systems in India and a few other countries, like the US and the UK, for crimes against women and children?

III. How much do international legal frameworks like the Convention on the Rights of the Child and CEDAW affect domestic punishment laws in India and other nations?

IV. Is a victim-centric and rehabilitative approach more successful in deterring crimes against women and children than strict punishments alone?

V. What legal and institutional challenges hinder the effective enforcement of punishment laws for crimes against women and children, and what reforms can be suggested to overcome them?

5. CRIME AGAINST WOMEN IN INDIA AND THEIR LEGAL PROVISIONS:

a) Rape (Section 63)

Rape is considered one of the most serious crimes against women under the BNS. It occurs when a man has sex with a woman without her consent or when consent is obtained through coercion, deception or abuse of authority. The law clearly establishes that consent must be voluntary and unambiguous. Situations where the woman has been threatened, intoxicated, mentally incapacitated, or deceived render consent invalid.

This provision recognizes rape as a violation of a woman's physical integrity and personal liberty, reflecting the constitutional principles of dignity and equality.²¹²⁶

• **Tukaram vs. State of Maharashtra:** In this case, the Supreme Court acquitted the accused police officers holding that consent is implied in the absence of physical resistance.

²¹²⁶ Bharatiya Nyaya Sanhita, 2023, Section 63.

This decision led to widespread public protest and major amendments to rape laws in 1983.²¹²⁷

• **State of Punjab vs. Gurmeet Singh:** The Supreme Court held that the testimony of a rape victim must be treated with great respect and can be sufficient for conviction even without corroboration.²¹²⁸

b) Punishment for Rape (Section 64)

The punishment for rape under BNS is harsh to ensure fear and justice for the victims. The law provides for rigorous imprisonment for a minimum term of ten years, which may extend to life imprisonment, and the victim will also have to pay a fine. In serious cases involving extreme cruelty the punishment may be more severe.

This strict sentencing framework reflects the growing recognition of sexual violence as a serious violation of human rights.²¹²⁹

• **Mukesh vs State (NCT of Delhi):** The Supreme Court upheld the death penalty awarded to the accused in the 2012 Delhi gang rape case, calling it one of the rarest cases due to its brutality.²¹³⁰

c) Aggravated Rape (Section 65)

Aggravated rape refers to circumstances where the perpetrator occupies a position of authority or trust. Such persons include police officers, public servants, prison officers, hospital staff or guardians who abuse their power to commit sexual offences. The law takes such crimes more seriously because the victim is placed in an unsafe situation and may be unable to protest or report the crime. For aggravated rape, the punishment can be extended to life imprisonment.²¹³¹

• **Delhi Domestic Working Women's Forum v. Union of India:** Supreme Court stressed the need for legal aid, protection and compensation for victims of rape and sexual harassment.²¹³²

²¹²⁷Tukaram v. State of Maharashtra (AIR 1979 SC 185)

²¹²⁸ State of Punjab vs Gurmit Singh (AIR 1996 SC 1393; (1996) 2 SCC 384)

²¹²⁹ Bharatiya Nyaya Sanhita, 2023, Section 64.

²¹³⁰ Mukesh vs State (NCT of Delhi) ((2017) 6 SCC 1).

²¹³¹ Bharatiya Nyaya Sanhita, 2023, Section 65.

²¹³² Delhi Domestic Working Women's Forum v. Union of India ((1995) 1 SCC 14).

d) Rape Resulting in Death or Vegetative State (Section 66)

If a rape leads to the death of the victim or causes a permanent vegetative state, the law prescribes very harsh penalties. The offender may face life imprisonment or, in the worst cases, the death penalty. This law was added to deal with extreme cases of sexual violence and to make sure criminal law serves as a strong deterrent.²¹³³

• **Dhananjay Chatterjee v. State of West Bengal:** The Supreme Court supported the death penalty for rape and murder, highlighting that punishment must show society's strong disapproval of such violent crimes.²¹³⁴

e) Sexual Intercourse by Husband During Separation (Section 67)

Even though marital rape is not officially a crime in Indian law, the law recognizes that sexual intercourse without consent during judicial separation is an offence. This provision shows that even when a marriage is legally over, a woman still has the right to refuse sexual relations and remain safe from forced intimacy.²¹³⁵

f) Sexual Intercourse by Person in Authority (Section 68)

This law makes it illegal for someone in a position of authority or trust to have sexual relations with the victim. Examples include prison guards exploiting inmates, hospital staff taking advantage of patients, or guardians abusing those under their care. The law considers that consent in such situations might not be genuine due to fear, pressure, or dependency.

Therefore, these acts are seen as serious exploitation.²¹³⁶

g) Sexual Intercourse by Deceitful Means (Section 69)

Section 69 prohibits sexual relations obtained through deception, especially through false promises of marriage or misleading information. This law reflects the idea that

consent gained through lies undermines a person's freedom and dignity, and can lead to serious emotional and social harm.²¹³⁷

• **Uday vs State of Karnataka:** The Court ruled that a false promise of marriage made only to get consent for sexual activity is considered rape if it's proven the promise wasn't serious.²¹³⁸

h) Gang Rape (Section 70)

When two or more people commit rape together, it's called gang rape. The group nature of the crime causes severe harm to the victim, both physically and mentally. The punishment for gang rape is very strict and may include life imprisonment. In extreme cases, especially when the victim is a minor or the violence is especially brutal, the death penalty may be given.²¹³⁹

• **Om Prakash vs State of Uttar Pradesh:** In a case of gang rape, the Supreme Court said that when evaluating the accounts of victims, courts should be careful not to dismiss their statements just because there are minor inconsistencies. Victims often face shame, trauma, and fear, so their testimonies should be taken seriously.²¹⁴⁰

i) Assault to Outrage Modesty (Section 74)

This crime happens when a person attacks or uses force on a woman with the intention of violating her modesty. Actions like touching a woman inappropriately or using physical aggression against her fall under this law. The law acknowledges that even non-penetrative sexual aggression can seriously harm a woman's dignity and safety.²¹⁴¹

• **Rupan Deol Bajaj v. KPS Gill:** The Supreme Court ruled that slapping a woman on her bottom was an act of outraging her modesty and that criminal charges against the person were justified.²¹⁴²

j) Sexual Harassment (Section 75)

²¹³⁷ Bharatiya Nyaya Sanhita, 2023, Section 69.

²¹³⁸ Uday vs State of Karnataka (AIR 2003 SC 1639; (2003) 4 SCC 46; 2003 Cri LJ 1539).

²¹³⁹ Bharatiya Nyaya Sanhita, 2023, Section 70.

²¹⁴⁰ Om Prakash vs State of Uttar Pradesh (AIR1960SC409)

²¹⁴¹ Bharatiya Nyaya Sanhita, 2023, Section 74.

²¹⁴² Rupan Deol Bajaj vs KPS Gill ((1995) 6 SCC 194).

²¹³³ Bharatiya Nyaya Sanhita, 2023, Section 66.

²¹³⁴ Dhananjay Chatterjee v. State of West Bengal ((1994) 2 SCC 220).

²¹³⁵ Bharatiya Nyaya Sanhita, 2023, Section 67.

²¹³⁶ Bharatiya Nyaya Sanhita, 2023, Section 68

Sexual harassment includes unwanted sexual behaviour such as physical contact, demands for sexual favours, showing pornography without permission, or making sexually suggestive remarks. This provision recognises that harassment can happen in workplaces, schools, and public areas and aims to give legal protection and remedies against such mistreatment.²¹⁴³

- **Vishaka vs State of Rajasthan:** The Supreme Court laid down guidelines to prevent sexual harassment at work, stating that it violates a woman's basic rights.²¹⁴⁴

k) **Assault with Intent to Disrobe (Section 76)**

Section 76 makes it a crime to assault a woman with the goal of making her take off her clothes or appear naked. These actions are considered deeply offensive and harmful to a woman's dignity. The law was introduced to protect women from being publicly humiliated through forced disrobing.²¹⁴⁵

l) **Voyeurism (Section 77)**

Voyeurism involve watching or recording a woman in a private moment without her permission. This includes secretly filming a woman in bathrooms, changing rooms, or other private areas. The rise of digital devices has made voyeurism a serious issue especially because such images can spread quickly on social media.²¹⁴⁶

- **Justice K.S. Puttaswamy vs Union of India:** The court confirmed the right to privacy as a fundamental right, reinforcing legal steps to protect people from voyeurism.²¹⁴⁷

m) **Stalking (Section 78)**

Stalking involves someone repeatedly following or contacting a woman even when she clearly doesn't want it or is not interested. It can also involve watching her online or trying to reach her through electronic ways. The law treats stalking as a serious crime because it can

make victims feel scared, anxious, and traumatized.²¹⁴⁸

- **Shafin Jahan v. Asokan K.M:** While the case mainly dealt with personal freedom and marriage, the court stressed the importance of a woman's right to make her own choices and be free from being forced or harassed.²¹⁴⁹

n) **Insulting the Modesty of a Woman (Section 79)**

This crime involves using words, gestures, or actions meant to insult a woman's dignity. Examples include making rude comments, doing offensive gestures, or being intimidating in public. Such actions may seem small, but they help create an environment where harassment is normal, which harms women's dignity and freedom in public spaces.²¹⁵⁰

o) **Dowry Death (Section 80)**

Dowry death happens when a woman dies because of harassment or cruelty over dowry demands within seven years of her marriage. If there's proof she was being harassed before her death, her husband or his family can be held legally responsible. This crime shows the ongoing problem of dowry-related violence in India.²¹⁵¹

- **Satbir Singh and Ors vs State of Haryana:** The court explained what evidence is needed to prove dowry death and made it clear that these laws must be strictly followed.²¹⁵²

p) **Cruelty by Husband or Relatives (Section 85)**

Cruelty by a husband or his family includes physical harm, mental abuse, and constant demands for dowry. It can also involve actions that push a woman to take her own life or cause serious physical or mental suffering. This law is meant to protect women from abuse within their homes.²¹⁵³

- **Arnesh Kumar vs State of Bihar:** The Supreme Court gave guidelines to stop laws against cruelty by husbands or their family from

²¹⁴³ Bharatiya Nyaya Sanhita, 2023, Section 75.

²¹⁴⁴ Vishaka vs State of Rajasthan AIR 1997 SC 3011.

²¹⁴⁵ Bharatiya Nyaya Sanhita, 2023, Section 76.

²¹⁴⁶ Bharatiya Nyaya Sanhita, 2023, Section 77.

²¹⁴⁷ Justice K.S. Puttaswamy vs Union of India (2017) 10 SCC 1; W.P. (Civil) No. 494 of 2012.

²¹⁴⁸ Bharatiya Nyaya Sanhita, 2023, Section 78.

²¹⁴⁹ Shafin Jahan v. Asokan K.M (AIR 2018 SC 1933).

²¹⁵⁰ Bharatiya Nyaya Sanhita, 2023, Section 79.

²¹⁵¹ Bharatiya Nyaya Sanhita, 2023, Section 80.

²¹⁵² Satbir Singh and Ors vs State of Haryana (2023 INSC 786)

²¹⁵³ Bharatiya Nyaya Sanhita, 2023, Section 85.

being misused, while still protecting real victims.²¹⁵⁴

q) **Causing Miscarriage (Section 88)**

Intentionally causing a miscarriage without a legal reason is a crime under the BNS.

However, if someone does it in good faith to save the woman's life, it may not be punished.²¹⁵⁵

• **Suchita Srivastava vs Chandigarh Administration:**

The court acknowledged that a woman's right to control her own body is part of her right to personal freedom under Article 21 of the Constitution.²¹⁵⁶

r) **Miscarriage Without Consent (Section 89)**

If a miscarriage happens without the woman's consent, it is considered a more severe crime and leads to stricter punishment. The law recognizes that a woman's right to make decisions about her own body is a key part of her personal freedom.²¹⁵⁷

6. CRIME AGAINST CHILDREN IN INDIA AND THEIR LEGAL PROVISIONS:

A. Constitutional Protection for Children

The Constitution of India provides a strong basis for protecting children's rights.

Article 21 ensures the right to life and personal liberty, which includes the right to live with dignity and safety.²¹⁵⁸

Article 21A guarantees free and compulsory education for children between the ages of six and fourteen.²¹⁵⁹

Article 24 prevents the employment of children under the age of fourteen in hazardous work.²¹⁶⁰

Article 39(e) and 39(f) direct the State to protect children from abuse and exploitation, and to provide them opportunities to grow in a healthy environment. These constitutional provisions serve as a guide for making laws and

implementing policies aimed at protecting children from crime and exploitation.²¹⁶¹

B. Protection of Children from Sexual Offences Act, 2012:

Sexual abuse of children is one of the most serious crimes and can have long-lasting psychological effects. To combat such crimes, India passed the Protection of Children from Sexual Offences Act, 2012, commonly known as the POCSO Act. The Act gives equal protection to all children under the age of 18 and sets up child-friendly processes for investigation and trial.

I. Section 3 – Penetrative Sexual Assault:

Section 3 defines penetrative sexual assault as when a person penetrates a child's sexual organs with any part of their body or an object, or forces the child to do the same.

The law recognizes that children cannot legally consent to sexual acts. Therefore, any act involving a child is considered a criminal offense regardless of any apparent consent.²¹⁶²

II. Section 4 – Punishment for Penetrative Sexual Assault:

A person who commits penetrative sexual assault is punishable with at least ten years of imprisonment, which could extend to life imprisonment, along with a fine. If the victim is under sixteen, the punishment is at least twenty years, which may extend to life imprisonment for the rest of the offender's life, along with a fine. The fine must be reasonable and used to cover the victim's medical costs and rehabilitation.²¹⁶³

Case Law

In **Alakh Alok Srivastava v. Union of India:** the Supreme Court directed the government to ensure that child rape cases are investigated and tried quickly under the POCSO Act.²¹⁶⁴

III. Section 5 – Aggravated Penetrative Sexual Assault:

Section 5 defines aggravated penetrative sexual assault as when such an assault is carried out under particularly serious

²¹⁵⁴ Arnesk Kumar vs State of Bihar ((2014) 8 SCC 273; AIR 2014 SC 2756).

²¹⁵⁵ Bharatiya Nyaya Sanhita, 2023, Section 88.

²¹⁵⁶ Suchita Srivastava vs Chandigarh Administration ((2009) 9 SCC 1).

²¹⁵⁷ Bharatiya Nyaya Sanhita, 2023, Section 89.

²¹⁵⁸ Constitution of India, 1949 (Article 21)

²¹⁵⁹ Constitution of India, 1949 (Article 21A)

²¹⁶⁰ Constitution of India, 1949 (Article 24)

²¹⁶¹ Constitution of India, 1949 (Article 39(e) and 39(f)).

²¹⁶² Protection of Children from Sexual Offences Act, 2012, Section 3.

²¹⁶³ Protection of Children from Sexual Offences Act, 2012, Section 4.

²¹⁶⁴ Alakh Alok Srivastava v. Union of India, (2018) 17 SCC 291.

conditions. This includes when the offender is someone in a position of authority or trust, such as a police officer, member of the armed forces, public servant, hospital staff, or teacher. It is also considered aggravated when the offender is a relative, guardian, or someone living in the same household, or is responsible for the child's care. The act becomes aggravated if it involves gang assault, use of weapons or harmful substances, repeated assaults, assault on children under twelve, exploitation of a child's physical or mental disability, or when the act leads to serious injury, pregnancy, infection with a life-threatening disease, or the death of the child. It is also aggravated if the crime is committed during communal violence, natural disasters, or if the offender had a prior conviction for sexual offenses.²¹⁶⁵

IV. Section 6 – Punishment for Aggravated Penetrative Sexual Assault:

A person who commits aggravated penetrative sexual assault will be sentenced to rigorous imprisonment for at least twenty years, which may extend to life imprisonment or even the death penalty, along with a fine.

The fine must be reasonable and used to cover the victim's medical and rehabilitation costs.²¹⁶⁶

Case Law

In **State of Madhya Pradesh v. Madanlal**, the Supreme Court stated that crimes against young girls must be dealt with strict punishment and that courts should not be lenient.²¹⁶⁷

V. Section 7 – Sexual Assault:

Section 7 defines sexual assault as any act involving physical contact with the intent of sexual gratification, without penetration.

Examples include:

- Touching the child's private parts
- Forcing the child to touch the offender
- Inappropriate physical contact.²¹⁶⁸

VI. Section 8 – Punishment for Sexual Assault:

Section 8 outlines the punishment for sexual assault, which includes imprisonment for a term of at least three years, which can extend up to five years, and a fine.²¹⁶⁹

Case Law

In **Attorney General for India v. Satish**, the Supreme Court clarified that any physical contact with sexual intent is considered sexual assault, even if there is no direct skin-to-skin contact.²¹⁷⁰

VII. Section 9 – Aggravated Sexual Assault:

Aggravated sexual assault on a child occurs when sexual assault is committed under serious circumstances, such as by police officers, members of the armed or security forces, public servants, or staff of institutions like jails, hospitals, schools, or religious establishments. It also includes offences committed by relatives, guardians, persons living in the same household, or individuals in positions of trust or authority over the child.

The offence is further considered aggravated when it involves gang assault, repeated assaults, use of weapons or harmful substances, or when it causes grievous injury, physical or mental incapacity, or infection with life-threatening diseases. It also applies when the victim is below twelve years of age, pregnant, or physically or mentally disabled, or when the offender attempts to murder the child, commits the offence during communal violence or disasters, has previous convictions for sexual offences, or forces the child to strip or parade naked in public.

Additionally, inducing or administering drugs, hormones, or chemicals to a child to cause early sexual maturity for sexual exploitation is also treated as aggravated sexual assault.²¹⁷¹

VIII. Section 10 – Punishment for aggravated Sexual Assault:

Anyone who commits aggravated sexual assault shall be punished with imprisonment of

²¹⁶⁵ Protection of Children from Sexual Offences Act, 2012, Section 5.

²¹⁶⁶ Protection of Children from Sexual Offences Act, 2012, Section 6.

²¹⁶⁷ State of Madhya Pradesh v. Madanlal, (2015) 7 SCC 681.

²¹⁶⁸ Protection of Children from Sexual Offences Act, 2012, Section 7.

²¹⁶⁹ Protection of Children from Sexual Offences Act, 2012, Section 8.

²¹⁷⁰ Attorney General for India v. Satish, (2021) 11 SCC CK 0069.

²¹⁷¹ Protection of Children from Sexual Offences Act, 2012, Section 9.

not less than five years, which may extend to seven years, along with a fine.²¹⁷²

IX. Section 11 – Sexual Harassment of a Child:

Section 11 defines sexual harassment of a child.

This includes:

- a) making sexually coloured remarks
- b) showing pornography to a child
- c) stalking a child for sexual purposes
- d) repeatedly contacting a child with sexual intent.²¹⁷³

X. Section 12 – Punishment Sexual Harassment of a Child:

Punishment for sexual harassment is provided under Section 12. Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.²¹⁷⁴

XI. Section 13 – Use of Child for Pornographic Purposes:

Any person who uses a child in any form of media, including television, internet, electronic, or printed material, for sexual gratification—such as depicting a child’s sexual organs, involving a child in real or simulated sexual acts, or presenting a child in an indecent or obscene manner—commits the offence of using a child for pornographic purposes. The term “use of a child” also includes involving a child in the creation, production, transmission, or distribution of pornographic material through any medium or technology.²¹⁷⁵

XII. Section 14 – Punishment for use of Child for Pornographic Purposes:

Anyone who uses a child for pornographic purposes shall be punished with imprisonment of at least five years and a fine, and for a second or subsequent offence, imprisonment of not less than seven years with a fine. If the act also involves offences such as penetrative sexual assault or sexual assault, the offender will

receive additional punishment under the relevant sections.²¹⁷⁶

Case Law

In **Shankar Kisanrao Khade v. State of Maharashtra**, the Supreme Court emphasized the seriousness of crimes involving sexual exploitation of minors.²¹⁷⁷

XIII. Section 15 – Punishment for storage of pornographic material involving child:

Any person who stores or possesses child pornographic material and fails to delete, report, or destroy it may be fined, with higher fines for repeated offences. Possessing such material for sharing, distribution, or display may lead to imprisonment up to three years, or fine, or both. If stored for commercial purposes, the punishment may range from three to five years imprisonment, and five to seven years for repeat offences, along with a fine.²¹⁷⁸

XIV. CHAPTER-IV:

The POCSO ACT also provide punishment to the abetment of the offences mentioned above. Let’s have brief study of those punishments.

❖ **Section 16 – Abetment of an Offence:**

A person is said to abet an offence if they instigate another person to commit it, participate in a conspiracy to commit it, or intentionally assist in its commission through any act or omission. Abetment also includes misrepresentation, concealment of facts, or facilitating the offence, such as employing, transporting, or harbouring a child through force, fraud, deception, or abuse of power for committing offences under the Act.²¹⁷⁹

❖ **Section 17 – Punishment for Abetment:**

Any person who abets an offence under this Act shall be punished with the same punishment prescribed for that offence if the act is committed as a result of such instigation, conspiracy, or assistance.²¹⁸⁰

❖ **Section 18 – Punishment for attempt to commit an offence:**

²¹⁷² Protection of Children from Sexual Offences Act, 2012, Section 10.
²¹⁷³ Protection of Children from Sexual Offences Act, 2012, Section 11.
²¹⁷⁴ Protection of Children from Sexual Offences Act, 2012, Section 12.
²¹⁷⁵ Protection of Children from Sexual Offences Act, 2012, Section 13.

²¹⁷⁶ Protection of Children from Sexual Offences Act, 2012, Section 14.
²¹⁷⁷ Shankar Kisanrao Khade v. State of Maharashtra, (2013) 5 SCC 546.
²¹⁷⁸ Protection of Children from Sexual Offences Act, 2012, Section 15.
²¹⁷⁹ Protection of Children from Sexual Offences Act, 2012, Section 16.
²¹⁸⁰ Protection of Children from Sexual Offences Act, 2012, Section 17.

Any person who attempts to commit an offence under this Act and performs any act towards its commission shall be punished with imprisonment up to one-half of the maximum punishment prescribed for that offence, or fine, or both.²¹⁸¹

C. Bharatiya Nyaya Sanhita, 2023:

Sections 95 to 99 of the Bharatiya Nyaya Sanhita, 2023, deal with offences involving the exploitation and protection of children. These provisions criminalize acts where children are used for criminal activities, sexual exploitation, or immoral purposes.

Section 95 prohibits hiring, employing, or using a child to commit any offence. Any person who engages a child in criminal activities is punishable with imprisonment of not less than three years which may extend to ten years, along with fine.²¹⁸²

Section 96 addresses the procurement of a child, where a person induces or persuades a child to leave a place with the intention of forcing or seducing the child into illicit sexual intercourse. The punishment may extend to ten years of imprisonment and fine.²¹⁸³

Section 97 punishes the act of kidnapping or abducting a child under ten years of age to steal property from the child. The offender may be punished with imprisonment up to seven years and fine.²¹⁸⁴

Case Law

In **S. Varadarajan v. State of Madras**, the Supreme Court clarified that kidnapping requires active involvement by the accused in taking the minor away from lawful guardianship.²¹⁸⁵

Section 98 deals with selling or disposing of a child for prostitution, illicit intercourse, or other immoral purposes, with punishment extending up to ten years of imprisonment and fine.²¹⁸⁶

Section 99 complements the previous provision by punishing those who buy or obtain possession of a child for prostitution or immoral purposes, with punishment ranging from seven to fourteen years of imprisonment and fine.²¹⁸⁷

Section 70 of Bharatiya Nyaya Sanhita, 2023 deals with the offence of gang rape, including circumstances wherein a lady or girl child is subjected to rape by one or more individuals jointly with a common intention.

In circumstances wherein several individuals are involved, all of them are equally guilty of committing the crime of gang rape, even if only one of them actually commits the act of rape.

The punishment for committing this crime is rigorous imprisonment for a term of not less than twenty years, which may extend to imprisonment for life for the remainder of the offender's natural life, together with a fine.

The fine imposed must be just and reasonable and should cover the medical expenses of the victim.

In circumstances wherein the lady or girl child is below the age of eighteen years, the punishment for committing gang rape becomes more severe and may extend to life imprisonment or even death sentence, together with fine. The gang rape of a child is considered an extremely heinous crime owing to the severe physical, mental, and emotional damage suffered by the child.²¹⁸⁸

Case Law

In **Bachpan Bachao Andolan v. Union of India**, the Supreme Court directed authorities to take strong measures to rescue and rehabilitate trafficked children.²¹⁸⁹

D. Child and Adolescent Labour (Prohibition and Regulation) Act, 1986:

Child labour refers to employment of children in work that interferes with their education or harms their development. The **Child and Adolescent Labour (Prohibition and Regulation) Act, 1986** prohibits employment of

²¹⁸¹ Protection of Children from Sexual Offences Act, 2012, Section 18.

²¹⁸² Bharatiya Nyaya Sanhita, 2023, Section 95.

²¹⁸³ Bharatiya Nyaya Sanhita, 2023, Section 96.

²¹⁸⁴ Bharatiya Nyaya Sanhita, 2023, Section 97.

²¹⁸⁵ S. Varadarajan v. State of Madras, 1965 AIR 942, 1965 SCR (1) 243, [1964] INSC 191.

²¹⁸⁶ Bharatiya Nyaya Sanhita, 2023, Section 98.

²¹⁸⁷ Bharatiya Nyaya Sanhita, 2023, Section 99.

²¹⁸⁸ Bharatiya Nyaya Sanhita, 2023, Section 70.

²¹⁸⁹ Bachpan Bachao Andolan v. Union of India, [2011] INSC 403.

children below fourteen years in hazardous occupations.

The law also regulates working conditions for adolescents.

Case Law

In **M.C. Mehta v. State of Tamil Nadu**, the Supreme Court ordered the government to identify child labourers and provide compensation and education for them.²¹⁹⁰

E. Protection and Rehabilitation of Children

The **Juvenile Justice (Care and Protection of Children) Act, 2015** provides mechanisms for care, protection, and rehabilitation of children who are victims of abuse or neglect.

The Act establishes:

- Child Welfare Committees
- Juvenile Justice Boards
- Special homes and shelter homes.

Case Law

In **Sheela Barse v. Union of India**, the Supreme Court emphasized the need for humane treatment and protection of children within the justice system.²¹⁹¹

7. COMPARATIVE STUDY OF PUNISHMENTS FOR CRIMES AGAINST WOMEN AND CHILDREN IN VARIOUS COUNTRIES:

In the upcoming study of comparison, we are going to discuss about for different countries for comparison. They are INDIA, UNITED STATES, UNITED KINGDOM AND SAUDI ARABIA.

a) INDIA:

In India, crimes against women and children are governed primarily by the Bharatiya Nyaya Sanhita, 2023 and the Protection of Children from Sexual Offences Act, 2012, which together create a comprehensive and stringent legal framework. The law prescribes severe punishments for offences such as rape, gang rape, sexual harassment, and child sexual abuse, reflecting a strong deterrent approach. For instance, rape is punishable with a minimum of ten years' imprisonment extending to life, while aggravated forms, including gang rape or

offences against minors, may lead to life imprisonment or even the death penalty. Similarly, under POCSO, penetrative sexual assault carries a minimum of ten years' imprisonment, and aggravated cases may result in life imprisonment or death. The framework also criminalizes a wide range of offences such as stalking, voyeurism, dowry death, cruelty by husband, child trafficking, and use of children for pornography. India's approach is notable for its recognition of consent, dignity, and bodily autonomy as central principles, as well as for its child-friendly procedures and victim compensation mechanisms. However, despite strict statutory provisions, challenges remain in effective enforcement, delays in trial, and relatively lower conviction rates.

b) UNITED KINGDOM:

In the United Kingdom, punishments for crimes against women and children are primarily governed by statutes such as the **Sexual Offences Act 2003, the Protection from Harassment Act 1997, the Domestic Abuse Act 2021, and the Modern Slavery Act 2015**. Rape and serious sexual offences are punishable with **up to life imprisonment**, with sentencing determined on the basis of harm and culpability rather than fixed minimum terms. The concept of consent is central to these offences and must be free, informed, and voluntary, as clarified in **R v. Bree**²¹⁹², where the court held that intoxication may negate valid consent. Child sexual offences are treated with utmost seriousness, often attracting **life imprisonment**, and include strict liability provisions to ensure protection of minors. Offences relating to child pornography and exploitation, governed by the Protection of Children Act 1978, carry punishments of up to **10 to 14 years of imprisonment**, and in **R v. Bowden**²¹⁹³, downloading indecent images was held to constitute "making" such material.

Further, offences such as stalking and harassment are criminalized under the Protection from Harassment Act, with

²¹⁹⁰ M.C. Mehta v. State of Tamil Nadu, AIR 1997 SC 699.
²¹⁹¹ Sheela Barse v. Union of India, (1986) 3 SCC 596.

²¹⁹² R v. Bree, [2007] EWCA Crim 804.
²¹⁹³ R v. Bowden, [1999] 1 WLR 823.

punishments extending up to **10 years in serious cases**, and workplace harassment liability was recognized in **Majrowski v. Guy's and St Thomas' NHS Trust**²¹⁹⁴. Domestic violence is addressed comprehensively under the Domestic Abuse Act, which covers physical, emotional, and coercive control, with punishment depending on the severity of the offence, while **R v. Brown**²¹⁹⁵ established that consent is not always a defence in cases involving serious bodily harm. Child trafficking and exploitation are dealt with under the **Modern Slavery Act**, which prescribes **punishment up to life imprisonment** and provides strong victim protection mechanisms. Additionally, offences such as voyeurism, including “revenge porn,” are punishable under the Sexual Offences Act with imprisonment of up to **two years**.

c) UNITED STATES:

In the United States, punishments for crimes against women and children are governed by a combination of federal statutes and state criminal laws, making the system both comprehensive and stringent. For the offence of rape and aggravated sexual assault, most states prescribe long-term imprisonment ranging from 20 years to life, with enhanced penalties where aggravating factors such as use of force, weapons, or serious bodily injury are present. At the federal level, provisions under **18 United States Code (U.S.C.) § 2241 (Aggravated Sexual Abuse) and 18 U.S.C. § 2242 (Sexual Abuse)** criminalize non-consensual sexual acts, with punishment extending up to life imprisonment. The constitutional limitation on punishment was clarified in **Kennedy v. Louisiana**²¹⁹⁶, where the Supreme Court held that the death penalty cannot be imposed for rape of a child where the victim does not die, emphasizing the Eighth Amendment prohibition against cruel and unusual punishment.

In relation to child sexual offences, the United States has some of the strictest laws globally. **The PROTECT Act 2003 (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act)** significantly strengthened penalties for child exploitation, including child pornography, trafficking, and sexual abuse, prescribing sentences that often range from 15 to 30 years, and in severe cases, life imprisonment. Additionally, **18 U.S.C. § 2251** criminalizes the sexual exploitation of children for the purpose of producing pornographic material, while **18 U.S.C. § 2252A** addresses distribution, receipt, and possession of such material. Courts have consistently upheld strict punishment in such cases, as seen in **New York v. Ferber**²¹⁹⁷, where the Supreme Court ruled that child pornography is not protected under the First Amendment, thereby allowing stringent criminal penalties.

The United States also emphasizes post-conviction monitoring and public safety through sex offender registration laws. **The Adam Walsh Child Protection and Safety Act 2006** mandates registration and community notification requirements for convicted sex offenders. The constitutional validity of such registries was upheld in **Smith v. Doe**²¹⁹⁸, where the Court held that sex offender registration is a civil regulatory measure and not punitive, thereby permitting its retrospective application.

For offences such as domestic violence, stalking, and harassment, both federal and state laws apply. **The Violence Against Women Act 1994** provides federal support for investigation and prosecution, as well as victim protection measures, including restraining orders and funding for shelters. The Supreme Court in **United States v. Morrison**²¹⁹⁹, however, limited the scope of federal civil remedies under the Act, holding that gender-motivated violence is not an economic activity under the Commerce Clause, thereby restricting federal jurisdiction in certain cases.

²¹⁹⁴ Majrowski v. Guy's and St Thomas' NHS Trust, [2006] UKHL 34.

²¹⁹⁵ R v. Brown, [1993] UKHL 19.

²¹⁹⁶ Kennedy v. Louisiana, 554 U.S. 407 (2008).

²¹⁹⁷ New York v. Ferber, 458 U.S. 747 (1982).

²¹⁹⁸ Smith v. Doe, 538 U.S. 84 (2003).

²¹⁹⁹ United States v. Morrison, 529 U.S. 598 (2000).

Child trafficking and exploitation are addressed under provisions such as **18 U.S.C. § 1591** (Sex Trafficking of Children), which prescribes severe penalties ranging from 15 years to life imprisonment, particularly where force, fraud, or coercion is involved. These provisions reflect a strong legislative intent to combat organized exploitation networks and protect vulnerable children.

d) SAUDI ARABIA:

In Saudi Arabia, punishments for crimes against women and children are derived from a combination of Islamic Sharia law and codified statutes, resulting in a system that emphasizes moral accountability, deterrence, and judicial discretion. Serious offences such as rape (classified under *zina bil jabr*, i.e., rape by coercion) are treated as grave crimes and may attract severe punishments including long-term imprisonment, flogging, or even the death penalty, particularly in aggravated cases involving violence, minors, or multiple offenders. Child sexual abuse and exploitation are also punished strictly under the **Child Protection Law 2014 and the Anti-Harassment Law 2018**, with penalties that may extend to imprisonment and substantial fines, depending on the severity of harm. The Anti-Harassment Law criminalizes acts such as sexual harassment, stalking, and online abuse, prescribing imprisonment up to five years and fines, with harsher penalties for repeat offenders.

Child trafficking and exploitation are addressed under the **Anti-Trafficking in Persons Law 2009**, which provides for strict punishment including imprisonment (up to 15 years or more) and heavy fines, especially where the victim is a child or where coercion and organized criminal activity are involved. Courts exercise wide discretion in determining punishment, often considering factors such as the nature of the offence, the offender's intent, and societal impact. Although Saudi Arabia does not rely heavily on published judicial precedents like common law countries, certain high-profile cases have demonstrated the imposition of capital punishment in extreme

instances of rape and child abuse, reflecting the seriousness with which such offences are viewed. Overall, the Saudi legal system is characterized by strict and sometimes exemplary punishments, strong moral condemnation of offences against women and children, and increasing codification of laws to address modern forms of abuse, including cyber harassment and trafficking.

8. CONCLUSION:

The current study shows that the legal framework addressing crimes against women and children in India has changed significantly, especially with the introduction of the Bharatiya Nyaya Sanhita, 2023, and the strengthening of laws like the Protection of Children from Sexual Offences Act, 2012. In response to the first research question, it is clear that Indian criminal law has strict punishment measures, clearly defined offenses, tougher minimum sentences, and acknowledges serious forms of crimes. Laws related to rape, gang rape, child sexual abuse, trafficking, and exploitation demonstrate a strong commitment to discouraging such crimes and protecting dignity and bodily autonomy. Court cases like *Mukesh v. State (NCT of Delhi)* and *State of Punjab v. Gurmit Singh* have emphasized the seriousness of these offenses and the importance of victim testimony. However, despite strict penalties, high crime rates show that heavy punishments alone do not guarantee effective deterrence, partially answering the third research question.

Regarding the second research question, the comparative analysis reveals notable differences between India and countries like the United States, the United Kingdom, and Saudi Arabia. India follows a very punitive approach, with mandatory minimum sentences and, in extreme cases, capital punishment. In contrast, Western countries focus on flexible sentencing, proportionality, and rehabilitation, supported by structured guidelines and strong victim support systems. For example, the United Kingdom's Sexual Offences Act 2003 emphasizes proportional sentencing based on harm and blameworthiness. The United States combines

harsh punishments with regulatory measures like sex offender registries, as seen in the Adam Walsh Child Protection and Safety Act 2006. In Saudi Arabia, the system is focused on deterrence and morality, where punishments can be very severe but often depend on judicial discretion and religious principles.

In addressing the third research question, international legal instruments like the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child have been crucial in shaping domestic laws in various countries. In India, these treaties have influenced the acknowledgment of victims' rights, child-friendly procedures, and gender-sensitive views of consent and dignity, as reflected in progressive judicial rulings and law reforms. Similarly, Western countries have integrated these international standards into their legal systems through rights-based approaches, focusing on victim protection, fairness in processes, and rehabilitation. Nonetheless, the degree of implementation varies across nations, revealing a gap between legal compliance and real enforcement.

In response to the fourth research question, the study shows that strict punishments, while necessary, are not enough by themselves to deter crimes against women and children. Evidence from both India and other contexts indicates that deterrence is effective when combined with certain punishment, quick investigations, efficient prosecutions, and processes that center on victims. Countries like the United Kingdom and the United States reveal that including rehabilitative measures, monitoring offenders, and comprehensive victim support systems improves the overall effectiveness of the justice system. In contrast, relying too much on severe punishments without real improvements in enforcement may lead to mere symbolic justice instead of real change.

Finally, concerning the fifth research question, the study identifies various structural and institutional issues that prevent the

effective enforcement of punishment laws in India. These challenges include delays in investigations and trials, underreporting of offenses due to social stigma, insufficient victim protection measures, and a lack of coordination among enforcement agencies. Although recent reforms, like victim-friendly ways of recording statements and forensic timelines, indicate progress toward a more responsive system, their implementation is still inconsistent. To tackle these challenges, the study suggests a need for a thorough reform strategy that goes beyond just changing laws. This includes improving institutional capacity, enhancing access to justice, ensuring witness protection, expanding rehabilitation and compensation programs, and promoting legal awareness.

In conclusion, the research highlights that the success of punishment frameworks in tackling crimes against women and children relies on finding a careful balance between deterrence, proportionality, and rehabilitation. While India's legal system has made considerable strides in recognizing the seriousness of these offenses and implementing strict punishments, its effectiveness ultimately hinges on strong enforcement, efficient procedures, and a victim-focused approach. Insights from other countries emphasize that a balanced justice model, which combines punitive, preventive, and rehabilitative components, is crucial for ensuring meaningful and lasting protection for women and children in today's society.

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